

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCE

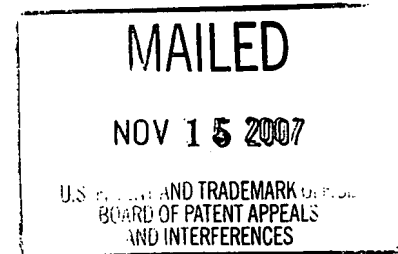
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Ex parte: PETTER ERICSON and TOMAS LUNDSTROM

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Application 09/813,112

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on October 31, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

The Final Rejection mailed on January 4, 2006, list the following ground[s] of rejection:

Claims 2, 17, 24, 31, 34 and 35 are rejected under **35 U.S.C. 103(a)** as being unpatentable over Lazzouni, in view of Dymetman et al., U.S.

Patent No. 6,752,317.

Appellants reiterate this ground of rejection as to claim 31 on page 8 of the Appeal Brief filed September 5, 2006 and on page A-1 of the Appeal Brief filed February 22, 2007. The Examiner's Answer mailed November 24, 2006 and May 15, 2007 both state on page 3 of the Examiner's Answer under the heading *Grounds of Rejection to be Reviewed on Appeal* that "[t]he Appellant's statement of the grounds of rejection to be reviewed on appeal is correct." However, under the heading *Grounds of Rejection* it states:

Claims 1, 6-12, 15, 16, 22, 23 and 31-33 are rejected under **35 U.S.C. 102(b)** as being anticipated by Lazzouni et al., U.S. Patent No. 5,652,412.

In the Appellants Reply Brief filed January 24, 2007 on page 2 under the heading **Issues On Appeal**, the Appellants state "The issue to be resolved in this application is:"

- 1) Whether claims 1,6-12, 15, 16, 22, 23 and 31-33 are anticipated under **35 U.S.C. § 102(b)** based on the teachings of *Lazzouni et al.* (USP 5,652,412) (hereinafter "*Lazzouni*");

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Therefore, it is not clear whether the claim 31 is being rejected under **35 U.S.C. 103(a) or 35 U.S.C. 102(b)**. Clarification is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) for a determination regarding the status of claims 31, and, if necessary, to vacate the Examiner's Answer mailed May 15, 2007, and issues a revised Examiner's Answer; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES



PATRICK J. NOLAN  
Deputy Chief Appeals Administrator  
(571)272-9797

PJN/ssc

cc: BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747